

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 54, as follows:

[Rollcall Vote No. 376 Leg.]

#### YEAS—45

Alexander	Crapo	Lincoln
Barrasso	DeMint	Lugar
Bayh	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Graham	Murkowski
Brownback	Grassley	Nelson (NE)
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Cantwell	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Klobuchar	Vitter
Corker	Kyl	Voinovich
Cornyn	LeMieux	Wicker

#### NAYS—54

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Kirk	Schumer
Cardin	Kohl	Shaheen
Carper	Landrieu	Specter
Casey	Lautenberg	Stabenow
Conrad	Leahy	Tester
Dodd	Levin	Udall (CO)
Dorgan	Lieberman	Udall (NM)
Durbin	McCaskill	Warner
Feingold	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden

#### NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 54. Under the previous order requiring 60 votes for the adoption of this motion, the motion is withdrawn.

AMENDMENT NO. 2793, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relationship to amendment No. 2793, as modified, offered by the Senator from North Dakota, Mr. DORGAN.

The Senator from North Dakota.

Mr. DORGAN. Madam President, this amendment is about fair pricing for prescription drugs for the American people. A colleague of mine just came up to me and said: My daughter takes Nexium. It costs her \$1,000 a month. I said: I happen to have a chart about Nexium here. This illustrates better than I know how to illustrate the difference in pricing.

Here is what Nexium costs: \$424 worth of Nexium in the United States is sold for \$40 in Great Britain, \$36 in Spain, \$37 in Germany, \$67 in France. If you like this kind of pricing where the American people pay the highest prices in the world for prescription drugs, if you like this kind of pricing, then you

ought to vote against this amendment. But this amendment is bipartisan—Republicans and Democrats. Over 30 Members of this Senate have supported this approach, saying let's provide fair pricing for a change for the American people.

We should not be paying the highest prices in the world for prescription drugs. All I ask is that you support this amendment to give the American people the opportunity for fair pricing for a change.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I rise to oppose the Dorgan amendment. Let's be clear, there are those who want to diminish safety. But the one entity in this country that is responsible for the food and drugs is the FDA, and Commissioner Hamburg has mentioned in her letter all of the potential risks of the Dorgan amendment.

Secondly, we have heard about the European Union as an example why we should permit reimportation. What did we hear from the European Community last week? In 2 months, they seized 34 million fake tablets at customs points in all member countries, and this was beyond their greatest fears.

Thirdly, how do we create affordability? By closing the doughnut hole. And this amendment will not do that, it will undermine that.

And finally, Senator LAUTENBERG's amendment, which comes up after this amendment, is the one that permits reimportation but takes care of the safety issues that the FDA has said are critical.

We want to make sure when you buy Nexium that what you get is the substance and the quality and the quantity that you want, not something less that can undermine your health care. Vote against the Dorgan amendment.

Mr. DORGAN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 377 Leg.]

#### YEAS—51

Alexander	Corker	Harkin
Begich	Cornyn	Hutchison
Bennet	Crapo	Johanns
Bingaman	DeMint	Johnson
Bond	Dorgan	Klobuchar
Boxer	Feingold	Kohl
Brown	Feinstein	Leahy
Coburn	Franken	LeMieux
Collins	Graham	Lincoln
Conrad	Grassley	McCain

McCaskill  
McConnell  
Merkley  
Murkowski  
Nelson (NE)  
Nelson (FL)  
Pryor

Risch  
Sanders  
Sessions  
Shaheen  
Shelby  
Snowe  
Specter

Stabenow  
Thune  
Udall (NM)  
Vitter  
Webb  
Wicker  
Wyden

#### NAYS—48

Akaka	Durbin	Levin
Barrasso	Ensign	Lieberman
Baucus	Enzi	Lugar
Bayh	Gillibrand	Menendez
Bennett	Gregg	Mikulski
Brownback	Hagan	Murray
Bunning	Hatch	Reed
Burr	Inhofe	Reid
Burris	Inouye	Roberts
Cantwell	Isakson	Rockefeller
Cardin	Kaufman	Schumer
Carper	Kerry	Tester
Casey	Kirk	Udall (CO)
Chambliss	Kyl	Voinovich
Cochran	Landrieu	Warner
Dodd	Lautenberg	Whitehouse

#### NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 48. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

AMENDMENT NO. 3156

Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 3156, offered by the Senator from New Jersey, Mr. LAUTENBERG.

Mr. LAUTENBERG. Madam President, this is a simple solution to a complicated problem. My amendment contains the Dorgan amendment. The work done by our friend from North Dakota is significant. But what it did not have is a guarantee, as much as possible, that the product was safe; that there were no counterfeits, that there were no mixtures of things that might not work well with other drugs.

My amendment adds a simple requirement that imported drugs be certified as safe by the Health and Human Services Secretary. I hope we will be able to pass this, which will include the Dorgan amendment, to make sure the products that get here are safe, no matter what the price will be. If it is not safe, it is worthless. We want to be sure every product that reaches our shore is safe to take and will be sold at a more reasonable cost.

Mr. BAUCUS. Madam President, I have long supported measures that allow Montanans to buy safe and effective drugs from foreign countries. This is why I support the Lautenberg amendment.

Currently, the Food and Drug Administration is required to review the safety and effectiveness of domestically produced drugs. FDA is also required to ensure the safety and effectiveness of legally imported drugs. Through FDA's robust inspection and other regulatory compliance activities, consumers can have a high degree of confidence in the quality of the drugs.

The Lautenberg amendment allows importation of drugs manufactured outside the United States and includes